

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BARRY LOWELL BARGER,

No. 2:16-CV-01314-PK

Petitioner,

ORDER

v.

MARK NOOTH,

Respondent.

Anthony D. Bornstein
Assistant Federal Public Defender
101 S.W. Main Street, Suite 1700
Portland, Oregon 97204

Attorney for Petitioner

Frederick M. Boss
Deputy Attorney General
Nick M. Kallstrom
Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, OR 97301-4096

Attorneys for Respondent

HERNÁNDEZ, District Judge:

Magistrate Judge Paul Papak issued a Findings & Recommendation [38] on July 19, 2017, recommending that Petitioner Barger's Petition for Writ of Habeas Corpus [2] be denied. Petitioner has timely filed objections [43] to the Findings & Recommendation. The matter is now before the Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When a party objects to any portion of the Magistrate Judge's Findings & Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

The Court has carefully considered Petitioner's objections and concludes there is no basis to modify the Findings & Recommendation. The Court has also reviewed the pertinent portions of the record *de novo* and finds no errors in the Magistrate Judge's Findings & Recommendation.

CONCLUSION

The Court ADOPTS Magistrate Judge Papak's Findings & Recommendation [38], and therefore, Petitioner's Petition for Writ of Habeas Corpus [2] is denied and this case is dismissed with prejudice. Additionally, the Court declines to issue a Certificate of Appealability because Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 24 day of Oct, 2017.



MARCO A. HERNÁNDEZ
United States District Judge